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6 Attorneys for Plaintiff
LARRY WILLIAMS

7 UNITED STATES DISTRICT COURT
8 CENTRAL DISTRICT OF CALIFORNIA, EASTERN DIVISION
9

10 LARRY WILLIAMS, an individual;

11 Plaintiff,

12 vs.

13 EAGLE INTERMODAL SERVICES,
INC., a Washington corporation; and
14 DOES 1 through 10, inclusive,

15 Defendants.
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Case No. 5:18-CV-01859-JGB-SP

[Assigned for All Purposes to the Hon.
Jesus G. Bernal, Courtroom 1 of the
Riverside Courthouse]

**STIPULATED PROTECTIVE
ORDER; ~~PROPOSED~~ ORDER**

Complaint Filed: August 31, 2018

Trial Date: None Set

[NOTE CHANGES MADE BY THE
COURT TO ¶¶ 6, 17]

1 **IT IS HEREBY STIPULATED** by and between Plaintiff Larry Williams
2 and Defendants Eagle Intermodal Services, Inc. (the “Parties”) to *Larry Williams*
3 *v. Eagle Intermodal Services, Inc., et al.* (Case No. 5:18-CV-01859-JGB-SP), by
4 and through their respective counsel of record, that in order to facilitate the
5 exchange of information and documents which may be subject to confidentiality
6 limitations on disclosure due to federal laws, state laws, and privacy rights, the
7 Parties stipulate as follows:

8 1. In this Stipulation and Protective Order, the words set forth below
9 shall have the following meanings:

10 a. “Proceeding” means the above-entitled proceeding, *Larry*
11 *Williams v. Eagle Intermodal Services, Inc., et al.* (Case No. 5:18-CV-01859-JGB-
12 SP).

13 b. “Court” means the Honorable Jesus G. Bernal, or any other
14 judge to which this Proceeding may be assigned, including Court staff
15 participating in such proceedings.

16 c. “Confidential” means any Documents, Testimony, or
17 Information which a Designating Party who believes in good faith that such
18 Documents, Testimony, or Information is entitled to confidential treatment under
19 applicable law or otherwise contain or reflect proprietary or confidential business,
20 commercial, financial, third party, consumer information, or other similarly
21 sensitive information of a non-public nature.

22 d. “Confidential Materials” means any Documents, Testimony or
23 Information as defined below designated as “Confidential” pursuant to the
24 provisions of this Stipulation and Protective Order.

25 e. “Designating Party” means the Party that designates Materials
26 as “Confidential.”

27 f. “Disclose” or “Disclosed” or “Disclosure” means to reveal,
28 divulge, give, or make available Materials, or any part thereof, or any information

1 contained therein.

2 g. “Documents” means (i) any “Writing,” “Original,” and
3 “Duplicate” as those terms are defined by California Evidence Code Sections 250,
4 255, and 260, which have been produced in discovery in this Proceeding by any
5 person, and (ii) any copies, reproductions, or summaries of all or any part of the
6 foregoing.

7 h. “Information” means the content of Documents or Testimony.

8 i. “Testimony” means all depositions, declarations or other
9 testimony taken or used in this Proceeding.

10 2. The Designating Party shall have the right to designate as
11 “Confidential” any Documents, Testimony or Information that the Designating
12 Party in good faith believes to contain non-public information that is entitled to
13 confidential treatment under applicable law.

14 3. The entry of this Stipulation and Protective Order does not alter,
15 waive, modify, or abridge any right, privilege or protection otherwise available to
16 any Party with respect to the discovery of matters, including but not limited to any
17 Party’s right to assert the attorney-client privilege, the attorney work product
18 doctrine, or other privileges, or any Party’s right to contest any such assertion.

19 4. Any Documents, Testimony or Information to be designated as
20 “Confidential” must be clearly so designated before the Document, Testimony or
21 Information is Disclosed or produced. The parties may agree that the case name
22 and number are to be part of the “Confidential” designation. The “Confidential”
23 designation should not obscure or interfere with the legibility of the designated
24 Information.

25 a. For Documents (apart from transcripts of depositions or other
26 pretrial or trial proceedings), the Designating Party must affix the legend
27 “Confidential” on each page of any Document containing such designated
28 Confidential Material.

1 b. For Testimony given in depositions the Designating Party may
2 either:

3 i. identify on the record, before the close of the deposition,
4 all “Confidential” Testimony, by specifying all portions of the Testimony
5 that qualify as “Confidential;” or

6 ii. designate the entirety of the Testimony at the deposition
7 as “Confidential” (before the deposition is concluded) with the right to
8 identify more specific portions of the Testimony as to which protection is
9 sought within 30 days following receipt of the deposition transcript. In
10 circumstances where portions of the deposition Testimony are designated for
11 protection, the transcript pages containing “Confidential” Information may
12 be separately bound by the court reporter, who must affix to the top of each
13 page the legend “Confidential,” as instructed by the Designating Party.

14 c. For Information produced in some form other than Documents,
15 and for any other tangible items, including, without limitation, compact discs or
16 DVDs, the Designating Party must affix in a prominent place on the exterior of the
17 container or containers in which the Information or item is stored the legend
18 “Confidential.” If only portions of the Information or item warrant protection, the
19 Designating Party, to the extent practicable, shall identify the “Confidential”
20 portions.

21 5. The inadvertent production by any of the undersigned Parties or non-
22 Parties to the Proceedings of any Document, Testimony or Information during
23 discovery in this Proceeding without a “Confidential” designation, shall be without
24 prejudice to any claim that such item is “Confidential” and such Party shall not be
25 held to have waived any rights by such inadvertent production. In the event that
26 any Document, Testimony or Information that is subject to a “Confidential”
27 designation is inadvertently produced without such designation, the Party that
28 inadvertently produced the document shall give written notice of such inadvertent

1 production within twenty (20) days of discovery of the inadvertent production,
2 together with a further copy of the subject Document, Testimony or Information
3 designated as “Confidential” (the “Inadvertent Production Notice”). Upon receipt
4 of such Inadvertent Production Notice, the Party that received the inadvertently
5 produced Document, Testimony or Information shall promptly destroy the
6 inadvertently produced Document, Testimony or Information and all copies
7 thereof, or, at the expense of the producing Party, return such together with all
8 copies of such Document, Testimony or Information to counsel for the producing
9 Party and shall retain only the “Confidential” designated Materials. Should the
10 receiving Party choose to destroy such inadvertently produced Document,
11 Testimony or Information, the receiving Party shall notify the producing Party in
12 writing of such destruction within ten (10) days of receipt of written notice of the
13 inadvertent production. This provision is not intended to apply to any inadvertent
14 production of any Information protected by attorney-client or work product
15 privileges. In the event that this provision conflicts with any applicable law
16 regarding waiver of confidentiality through the inadvertent production of
17 Documents, Testimony or Information, such law shall govern.

18 6. In the event that counsel for a Party receiving Documents, Testimony
19 or Information in discovery designated as “Confidential” objects to such
20 designation with respect to any or all of such items, said counsel shall advise
21 counsel for the Designating Party, in writing, of such objections within fourteen
22 (14) days of receipt of the Documents, Testimony or Information, the specific
23 Documents, Testimony or Information to which each objection pertains, and the
24 specific reasons and support for such objections (the “Designation Objections”).
25 Counsel for the Designating Party shall have thirty (30) days from receipt of the
26 written Designation Objections to either (a) agree in writing to de-designate
27 Documents, Testimony or Information pursuant to any or all of the Designation
28 Objections and/or (b) file a motion with the Court, in compliance with Local Rule

1 37, seeking to uphold any or all designations on Documents, Testimony or
2 Information addressed by the Designation Objections (the “Designation Motion”).
3 Pending a resolution of the Designation Motion by the Court, any and all existing
4 designations on the Documents, Testimony or Information at issue in such Motion
5 shall remain in place. The Designating Party shall have the burden on any
6 Designation Motion of establishing the applicability of its “Confidential”
7 designation. In the event that the Designation Objections are neither timely agreed
8 to nor timely addressed in the Designation Motion, then such Documents,
9 Testimony or Information shall be de-designated in accordance with the
10 Designation Objection applicable to such material.

11 7. Access to and/or Disclosure of Confidential Materials designated as
12 “Confidential” shall be permitted only to the following persons:

- 13 a. the Court;
- 14 b. attorneys of record in the Proceedings and their affiliated
15 attorneys, paralegals, clerical and secretarial staff employed by such attorneys who
16 are actively involved in the Proceedings and are not employees of any Party;
- 17 c. in-house counsel to the undersigned Parties and the paralegal,
18 clerical and secretarial staff employed by such counsel. Provided, however, that
19 each non-lawyer given access to Confidential Materials shall be advised that such
20 Materials are being Disclosed pursuant to, and are subject to, the terms of this
21 Stipulation and Protective Order and that they may not be Disclosed other than
22 pursuant to its terms;
- 23 d. those officers, directors, partners, members, employees and
24 agents of all non-designating Parties that counsel for such Parties deems necessary
25 to aid counsel in the prosecution and defense of this Proceeding; provided,
26 however, that prior to the Disclosure of Confidential Materials to any such officer,
27 director, partner, member, employee or agent, counsel for the Party making the
28 Disclosure shall deliver a copy of this Stipulation and Protective Order to such

1 person, shall explain that such person is bound to follow the terms of such Order,
2 and shall secure the signature of such person on a statement in the form attached
3 hereto as **Exhibit A**;

4 e. court reporters in this Proceeding (whether at depositions,
5 hearings, or any other proceeding);

6 f. any deposition, trial or hearing witness in the Proceeding who
7 previously has had access to the Confidential Materials, or who is currently or was
8 previously an officer, director, partner, member, employee or agent of an entity that
9 has had access to the Confidential Materials;

10 g. any deposition or non-trial hearing witness in the Proceeding
11 who previously did not have access to the Confidential Materials; provided,
12 however, that each such witness given access to Confidential Materials shall be
13 advised that such Materials are being Disclosed pursuant to, and are subject to, the
14 terms of this Stipulation and Protective Order and that they may not be Disclosed
15 other than pursuant to its terms;

16 h. mock jury participants, provided, however, that prior to the
17 Disclosure of Confidential Materials to any such mock jury participant, counsel for
18 the Party making the Disclosure shall deliver a copy of this Stipulation and
19 Protective Order to such person, shall explain that such person is bound to follow
20 the terms of such Order, and shall secure the signature of such person on a statement
21 in the form attached hereto as **Exhibit A**.

22 i. outside experts or expert consultants consulted by the
23 undersigned Parties or their counsel in connection with the Proceeding, whether or
24 not retained to testify at any oral hearing; provided, however, that prior to the
25 Disclosure of Confidential Materials to any such expert or expert consultant,
26 counsel for the Party making the Disclosure shall deliver a copy of this Stipulation
27 and Protective Order to such person, shall explain its terms to such person, and
28 shall secure the signature of such person on a statement in the form attached hereto

1 as **Exhibit A**. It shall be the obligation of counsel, upon learning of any breach or
2 threatened breach of this Stipulation and Protective Order by any such expert or
3 expert consultant, to promptly notify counsel for the Designating Party of such
4 breach or threatened breach;

5 j. any third-party mediators that the Parties agree to retain for the
6 purposes of private mediation; and

7 k. any other person that the Designating Party agrees to in writing.

8 8. Confidential Materials shall be used by the persons receiving them
9 only for the purposes of preparing for, conducting, participating in the conduct of,
10 and/or prosecuting and/or defending the Proceeding, and not for any business or
11 other purpose whatsoever.

12 9. Any Party to the Proceeding (or other person subject to the terms of
13 this Stipulation and Protective Order) may ask the Court, after appropriate notice
14 to the other Parties to the Proceeding, to modify or grant relief from any provision
15 of this Stipulation and Protective Order.

16 10. Entering into, agreeing to, and/or complying with the terms of this
17 Stipulation and Protective Order shall not:

18 a. operate as an admission by any person that any particular
19 Document, Testimony or Information marked “Confidential” contains or reflects
20 trade secrets, proprietary, confidential or competitively sensitive business,
21 commercial, financial or personal information; or

22 b. prejudice in any way the right of any Party (or any other person
23 subject to the terms of this Stipulation and Protective Order):

24 i. to seek a determination by the Court of whether any
25 particular Confidential Material should be subject to protection as
26 “Confidential” under the terms of this Stipulation and Protective Order; or

27 ii. to seek relief from the Court on appropriate notice to all
28 other Parties to the Proceeding from any provision(s) of this Stipulation and

1 Protective Order, either generally or as to any particular Document, Material
2 or Information.

3 11. Any Party to the Proceeding who has not executed this Stipulation and
4 Protective Order as of the time it is presented to the Court for signature may
5 thereafter become a Party to this Stipulation and Protective Order by its counsel's
6 signing and dating a copy thereof and filing the same with the Court, and serving
7 copies of such signed and dated copy upon the other Parties to this Stipulation and
8 Protective Order.

9 12. Any Information that may be produced by a non-Party witness in
10 discovery in the Proceeding pursuant to subpoena or otherwise may be designated
11 by such non-Party as "Confidential" under the terms of this Stipulation and
12 Protective Order, and any such designation by a non-Party shall have the same force
13 and effect, and create the same duties and obligations, as if made by one of the
14 undersigned Parties hereto. Any such designation shall also function as a consent
15 by such producing Party to the authority of the Court in the Proceeding to resolve
16 and conclusively determine any motion or other application made by any person or
17 Party with respect to such designation, or any other matter otherwise arising under
18 this Stipulation and Protective Order.

19 13. If any person subject to this Stipulation and Protective Order who has
20 custody of any Confidential Materials receives a subpoena or other process
21 ("Subpoena") from any government or other person or entity demanding
22 production of Confidential Materials, the recipient of the Subpoena shall promptly
23 give notice of the same by electronic mail transmission, followed by either express
24 mail or overnight delivery to counsel of record for the Designating Party, and shall
25 furnish such counsel with a copy of the Subpoena. Upon receipt of this notice, the
26 Designating Party may, in its sole discretion and at its own cost, move to quash or
27 limit the Subpoena, otherwise oppose production of the Confidential Materials,
28 and/or seek to obtain confidential treatment of such Confidential Materials from

1 the subpoenaing person or entity to the fullest extent available under law. The
2 recipient of the Subpoena may not produce any Documents, Testimony or
3 Information pursuant to the Subpoena prior to the date specified for production on
4 the Subpoena.

5 14. Nothing in this Stipulation and Protective Order shall be construed to
6 preclude either Party from asserting in good faith that certain Confidential
7 Materials require additional protection. The Parties shall meet and confer to agree
8 upon the terms of such additional protection.

9 15. If, after execution of this Stipulation and Protective Order, any
10 Confidential Materials submitted by a Designating Party under the terms of this
11 Stipulation and Protective Order is Disclosed by a non-Designating Party to any
12 person other than in the manner authorized by this Stipulation and Protective Order,
13 the non-Designating Party responsible for the Disclosure shall bring all pertinent
14 facts relating to the Disclosure of such Confidential Materials to the immediate
15 attention of the Designating Party.

16 16. This Stipulation and Protective Order is entered into without prejudice
17 to the right of any Party to knowingly waive the applicability of this Stipulation
18 and Protective Order to any Confidential Materials designated by that Party. If the
19 Designating Party uses Confidential Materials in a non-Confidential manner, then
20 the Designating Party shall advise that the designation no longer applies.

21 17. Where any Confidential Materials, or Information derived from
22 Confidential Materials, is included in any motion or other proceeding governed by
23 Federal Rules of Civil Procedure, Rule 5.2, the party shall follow those rules. With
24 respect to discovery motions or other proceedings not governed by Federal Rules
25 of Civil Procedure, Rule 5.2, the following shall apply: If Confidential Materials
26 or Information derived from Confidential Materials are submitted to or otherwise
27 disclosed to the Court in connection with discovery motions and proceedings, the
28 party seeking to submit the materials shall file an application to file the Confidential

1 Materials under seal in compliance with Local Rule 79-5. Confidential Materials
2 may only be filed under seal pursuant to a court order authorizing the sealing of the
3 specific Confidential Materials at issue.

4 18. The Parties shall meet and confer regarding the procedures for use of
5 Confidential Materials at trial. This Stipulation and Protective Order does not
6 govern the use of Confidential Information at trial. Rather, the use of Confidential
7 Information at trial shall be addressed with the trial court at the appropriate time in
8 advance of trial including that one party may at its election move the Court for
9 entry of an appropriate order regarding the use of Confidential Information at trial.

10 19. Nothing in this Stipulation and Protective Order shall affect the
11 admissibility into evidence of Confidential Materials, or abridge the rights of any
12 person to seek judicial review or to pursue other appropriate judicial action with
13 respect to any ruling made by the Court concerning the issue of the status of
14 Protected Material.

15 20. This Stipulation and Protective Order shall continue to be binding
16 after the conclusion of this Proceeding and all subsequent proceedings arising from
17 this Proceeding, except that a Party may seek the written permission of the
18 Designating Party or may move the Court for relief from the provisions of this
19 Stipulation and Protective Order. To the extent permitted by law, the Court shall
20 retain jurisdiction to enforce, modify, or reconsider this Stipulation and Protective
21 Order, even after the Proceeding is terminated.

22 21. Upon written request made within thirty (30) days after the settlement
23 or other termination of the Proceeding, the undersigned Parties shall have thirty
24 (30) days to either (a) promptly return to counsel for each Designating Party all
25 Confidential Materials and all copies thereof (except that counsel for each Party
26 may maintain in its files, in continuing compliance with the terms of this Stipulation
27 and Protective Order, all work product, and one copy of each pleading filed with
28 the Court, (b) agree with counsel for the Designating Party upon appropriate

1 certification of destruction or other disposition of such Confidential Materials, or
2 (c) as to any Documents, Testimony or other Information not addressed by sub-
3 paragraphs (a) and (b), file a motion seeking a Court order regarding proper
4 preservation of such Materials. To the extent permitted by law the Court shall retain
5 continuing jurisdiction to review and rule upon the motion referred to in sub-
6 paragraph (c) herein.

7 22. After this Stipulation and Protective Order has been signed by counsel
8 for all Parties, it shall be presented to the Court for entry. Counsel agree to be bound
9 by the terms set forth herein with regard to any Confidential Materials that have
10 been produced before the Court signs this Stipulation and Protective Order.

11 23. The Parties and all signatories to the Certification attached hereto as
12 **Exhibit A** agree to be bound by this Stipulation and Protective Order pending its
13 approval and entry by the Court. In the event that the Court modifies this
14 Stipulation and Protective Order, or in the event that the Court enters a different
15 Protective Order, the Parties agree to be bound by this Stipulation and Protective
16 Order until such time as the Court may enter such a different Order. It is the Parties'
17 intent to be bound by the terms of this Stipulation and Protective Order pending its
18 entry so as to allow for immediate production of Confidential Materials under the
19 terms herein.

20
21 This Stipulation and Protective Order may be executed in counterparts.

22 ///

1 Dated: March 25, 2019

RISE LAW FIRM, PC

2
3 By: /s/ Nehemiah H. Choi
4 LISA M. WATANABE-PEAGLER
NEHEMIAH H. CHOI

5 Attorneys for Plaintiff LESLIE
6 WILLIAMS

7 Dated: March 25, 2019

GORDON REES SCULLY
8 MANSUKHANI, LLP

9 By: /s/ Aya J. Deam
10 CRAIG J. MARIAM
11 AYA J. DEAM

12 Attorneys for Defendant EAGLE
INTERMODAL SERVICES, INC.

13
14 **~~PROPOSED~~ ORDER**

15 GOOD CAUSE APPEARING, the Court hereby approves this
16 Stipulation and Protective Order.

17 IT IS SO ORDERED

18
19 DATED: April 1, 2019

20  _____

UNITED STATES MAGISTRATE JUDGE

EXHIBIT A

CERTIFICATION RE CONFIDENTIAL DISCOVERY MATERIALS

I hereby acknowledge that I, _____ [NAME],
_____[POSITION AND EMPLOYER], am
about to receive Confidential Materials supplied in connection with the Proceeding,
designated as Case No.: 5:18-CV-01859-JGB-SP. I certify that I understand that
the Confidential Materials are provided to me subject to the terms and restrictions
of the Stipulation and Protective Order filed in this Proceeding. I have been given
a copy of the Stipulation and Protective Order; I have read it, and I agree to be
bound by its terms.

I understand that Confidential Materials, as defined in the Stipulation and
Protective Order, including any notes or other records that may be made regarding
any such materials, shall not be Disclosed to anyone except as expressly permitted
by the Stipulation and Protective Order. I will not copy or use, except solely for
the purposes of this Proceeding, any Confidential Materials obtained pursuant to
this Protective Order, except as provided therein or otherwise ordered by the Court
in the Proceeding.

I further understand that I am to retain all copies of all Confidential
Materials provided to me in the Proceeding in a secure manner, and that all copies
of such Materials are to remain in my personal custody until termination of my
participation in this Proceeding, whereupon the copies of such Materials will be
returned to counsel who provided me with such Materials.

I declare under penalty of perjury, under the laws of the State of California,
that the foregoing is true and correct. Executed this _____ day of _____,
20__, at

BY: _____